

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

In re

TIMOTHY DOUGLAS HAYES,
Debtor.

Case No. 16-bk-11983-REF

Chapter Number: 7

315 BOWERY HOLDINGS, LLC and
CBGB FESTIVAL, LLC

Plaintiffs,

v.

TIMOTHY HAYES,
Defendant.

Adversary No. 16-186

STATUS REPORT

Pursuant to the Court's December 23, 2016 Order in this Adversary Proceeding (Adv. Dkt. No. 33), by which the Court stayed the Nondischargeability Action pending a final determination and judgment in the New York state court action *SW Productions, Inc. v. CBGB Festival, LLC*, No. 652990/2014 (Sup. Ct. N.Y. County 2014) (the "New York Action"), and the Court's January 12, 2018 Order directing Plaintiffs to file Status Reports beginning on January 19, 2018 and then every three months thereafter (Adv. Dkt. Nos. 44, 48), Plaintiffs 315 Bowery Holdings, LLC and CBGB Festival, LLC (together, "CBGB"), through their undersigned counsel, hereby submit this Status Report outlining the status of the New York Action since the last status report dated April 13, 2018 (Adv. Dkt. No. 47).

1. On June 6, 2018, the parties to the New York Action appeared for a status conference before the court. At this time, the court entered an Order requiring that certain third-party subpoenas be served by June 15, 2018 (New York Action Dkt. No. 387). The court set a further status conference for July 11, 2018. *Id.* The current end date for all discovery to be completed remains July 20, 2018 (New York Action Dkt. No. 362).

2. In addition, the New York Court set a deadline of July 12, 2018 for filing of any default judgment, including against Debtor-Defendant Timothy Hayes, who has yet to answer or appear in response to the claims against him in the New York Action. If the CBGB Parties obtain a default judgment against Mr. Hayes in the New York Action, we will contact the Court and counsel for Mr. Hayes about re-opening this Adversary Proceeding.

3. In the meantime, the CBGB parties have continued to try to schedule the deposition for Mr. Hayes in this Adversary Proceeding (jointly as a deposition for purposes of the New York Action). We issued a deposition notice in this proceeding, along with a deposition subpoena for the New York Action, for Mr. Hayes to be deposed on July 17, 2018, pursuant to this Court's grant of CBGB's request to lift the bankruptcy stay for the limited purpose of conducting his deposition in both the New York and Nondischargeability Actions (Adv. Dkt. No. 42). Mr. Hayes has not yet agreed to, or objected to, that date or provided alternative dates for his deposition.

4. The CBGB parties and Timothy Hayes have reached a settlement in principle, but there have been substantial delays in finalizing the settlement papers. We received suggested revisions on the draft papers this week from Mr. Hayes, which took months to elicit. (We have been requesting comments or signatures on our proposed papers since mid-February 2018.) We are addressing Mr. Hayes's proposed changes now. The CBGB Parties are concerned we will see similar delays when it comes to execution of the settlement papers by Mr. Hayes.

5. We believe the Court's intervention may be helpful in avoiding further unnecessary delays. We therefore respectfully request that the Court schedule a telephone conference to be attended by counsel for the parties, and the by the parties themselves. Either way, the CBGB parties will continue to work toward the resolution of this Adversary Proceeding.

Respectfully Submitted: June 22, 2018

SHER TREMONTE, LLP

By: /s/ Kimo S. Peluso

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